

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

HELEN MARIE SCOTT	:	CIVIL ACTION
	:	
v.	:	
	:	
METROPOLITAN LIFE INSURANCE	:	
COMPANY	:	00-2090

**MEMORANDUM AND ORDER**

**J.M.KELLY, J.**

**AUGUST, 2000**

Presently before the Court is a motion to dismiss filed by the Defendant, Metropolitan Life Insurance Company ("Metropolitan"). The motion arises from a racial discrimination claim filed by the Plaintiff, Helen Marie Scott ("Scott") pursuant to Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. §§ 2000e-2000e-17 (1994), 42 U.S.C. § 1981 and the Pennsylvania Human Relations Act ("PHRA"), 43 Pa. Cons. Stat. Ann. §§ 951-963 (West 1991). By agreement of the parties, the Plaintiff's § 1981 claim is dismissed. The Defendant's motion as to the remainder of the Plaintiff's claims, however, is denied.

**I. BACKGROUND**

Accepting as true the facts alleged in the Plaintiff's Complaint and all reasonable inferences that can be drawn therefrom, the facts of the case are as follows. Scott became an employee of Metropolitan on or about February 3, 1969. On approximately September 20, 1994, she was informed that her employment was being terminated, effective October 7, 1994. Shortly thereafter, on November 18, 1994, Scott appeared before the Equal Employment Opportunity Commission ("EEOC") to file charges against Metropolitan. Her attorney received an EEOC letter dated November 29, 1994 acknowledging the filing of the charge. The letter additionally stated that "the [EEOC] will provide a copy of your charge to the... Pennsylvania Human

Relations Comm.” (“PHRC”) and “you need do nothing further at this time.” Pl.’s Answer to Def.’s Mot. to Dismiss, Ex. A. On February 17, 1995, the EEOC again wrote Scott’s attorney confirming that “your client’s above-referenced charge has been filed with both the... EEOC and the... PHRC.” Id. Ex. B. The letter further stated that, “[t]he contents of the EEOC file will be sent to the PHRC so that the PHRC will not have to request information from you or the Respondent which has already been provided to EEOC.” Id. The PHRC then requested an expanded formal complaint, which was filed May 25, 1995.

From that point until approximately July 1998, despite repeated requests for information, Scott heard little from either the EEOC or the PHRC. More specifically, on September 13, 1994, Scott requested in writing an update as to the status of the charge. She received no response and only after intermittent calls from then until January 16, 1996 did Scott receive notification from the EEOC that her claim had been transferred to its Pittsburgh office because of “workload considerations.” Id. Ex. E. Then, the next day, January 17, 1996, Scott received notice from the PHRC that a hearing was to be set for late February 1996. It was later rescheduled for March 20, 1996.

Thereafter, again not having heard from either the EEOC or the PHRC, on January 29, 1997, Scott wrote the PHRC requesting an update. She received no reply to this request, her monthly telephone calls, her October 6, 1997 letter or her subsequent telephone calls. Finally, on December 31, 1997, the PHRC wrote Scott informing her that her complaint had been “recently reassigned” to another human relations representative.

After another two months, with nothing seemingly accomplished by the PHRC, Scott wrote again requesting a “meeting with all counsel to review the status, so that the matter may

proceed.” Id. Ex. J. The PHRC did not respond, so Scott wrote again on July 14, 1998 asking “[m]ay we hear from you. Please give my clients some updates so that she knows the file is not simply lost.” Id. Ex. K. Finally, approximately ten days later, the PHRC informed Scott that her complaint was “not sufficient,” which was followed by notification on January 26, 1999 that the PHRC had determined that the “complaint should be dismissed.” Id. Ex. M.

Following the dismissal of her complaint by the PHRC, however, Scott did not receive a right-to-sue letter from the EEOC. She therefore wrote the EEOC on October 22, 1999 requesting the letter. Over two months later, Scott’s counsel received a call from the EEOC informing him that it had no record of the complaint in its computers and that the file could not be found. In response, on December 23, 1999, Scott sent the EEOC a copy of the complaint letter, per their request. She received no response, however, and on January 21, 2000, wrote with regard to the letter. Scott had not heard from the EEOC by April 21, 2000 and therefore filed suit in this court without a right-to-sue letter.

## **II. STANDARD OF REVIEW**

In considering whether to dismiss a complaint for failing to state a claim upon which relief can be granted, the court may consider those facts alleged in the complaint as well as matters of public record, orders, facts in the record and exhibits attached to the complaint. See Oshiverv. Levin, Fishbein, Sedran & Berman \_\_\_, 38 F.3d 1380, 1391 (3d Cir. 1994). The court must accept those facts as true. See Hishonv. King & Spalding \_\_\_, 467 U.S. 69, 73 (1983). Moreover, the complaint is viewed in the light most favorable to the plaintiff. See Tunnellv. Wiley, 514 F.2d 971, 975 n.6 (3d Cir. 1975). In addition to these expansive parameters, the threshold a plaintiff must meet to satisfy pleading requirements is exceedingly low; a court may

dismiss a complaint only if the plaintiff can prove no set of facts that would entitle him or her to relief. See Conley v. Gibson, 355 U.S. 41, 45-46 (1957).

### **III. DISCUSSION**

Metropolitan argues in its motion that Scott has not stated a claim upon which relief can be granted under either Title VII or the PHRA. It contends she did not satisfy the jurisdictional prerequisites necessary to filing a Title VII claim and that her PHRA claim was not timely filed. The Court will discuss each argument below.

#### **A. Title VII Claim**

Metropolitan argues first that Scott's Title VII claim should be dismissed because she does not have a right-to-sue letter from the EEOC. Scott concedes that the EEOC has not issued a right-to-sue letter, but argues that she has satisfied the necessary prerequisites to obtaining one and therefore should be allowed to proceed in this Court.

The general rule is that receipt of a right-to-sue letter is a statutory prerequisite to filing suit under Title VII. See Gooding v. Warner-Lambert Co., 744 F.2d 354, 358 (3d Cir. 1984). In circumstances where the EEOC has failed to issue such a letter despite the expiration of the 180-day deadline, however, courts have allowed a plaintiff to proceed so long as she can show she is entitled to the right-to-sue letter and has requested it. See, e.g., Anjelino v. New York Times Co., 200 F.3d 73, 96 (3d Cir. 2000); Gooding, 744 F.2d at 357-59; Fouche v. Jekyll Island-State Park Auth., 713 F.2d 1518, 1526 (11th Cir. 1983); Johnson-Medland v. Bethanna, Civ. A. No. 96-4258, 1996 WL 612467, at \*6 (E.D. Pa. Oct. 17, 1996); Dougherty v. Lower Merion, No. CIV. A. 96-1589, 1996 WL 273675, at \*2 (E.D. Pa. May 15, 1996). To hold otherwise would be to require the plaintiff to compel the EEOC to issue the letter through a writ of mandamus, a

cumbersome process. See Johnson-Medland, 1996 WL 612467, at \*6; Dougherty, 1996 WL 273675, at \*2.

Applying this standard to the instant case, the Court finds that Scott is entitled to proceed with her Title VII claim in this Court despite the absence of a right-to-sue letter. First, given that nearly six years has passed since Metropolitan's alleged discrimination, clearly the 180-day period has expired.<sup>1</sup> In addition, the filings before the Court include copies of the numerous letters sent to the PHRC and EEOC regarding the status of Scott's claim as well as a request for a right-to-sue letter. The EEOC acknowledged receipt of Scott's letter by informing her they were unable to locate her file. Accordingly, Scott has demonstrated that she is entitled to the right-to-sue letter and that she has requested it from the EEOC. Metropolitan's motion is therefore denied as to this issue.

#### **B. PHRA Claim**

Metropolitan argues secondly that Scott did not timely file her PHRA claim. To bring suit under the PHRA, a plaintiff must first have filed an administrative complaint with the PHRC within 180 days of the alleged act of discrimination. See 43 Pa. Cons. Stat. Ann. § 959(g). Failure to file a timely complaint with the PHRC serves to preclude judicial remedies under the PHRA. See Woodson v. Scott Paper Co., 109 F.3d 913, 925 (3d Cir. 1997). Whether the filing requirements have been satisfied is a matter of Pennsylvania law, and one that has been strictly

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<sup>1</sup>In this regard, the Court notes Metropolitan's argument that Scott's claim should be barred by the doctrine of laches because she waited approximately five years from the time she filed her charge until requesting a right-to-sue letter. While under certain circumstances the doctrine of laches may serve to bar a Title VII claim, the Court finds that in light of the inordinate amount of time this case was before the PHRC and EEOC, as well as the pervasive and repeated attempts by Scott to inquire as to its status, the delay was not inexcusable.

interpreted by Pennsylvania courts. See, e.g., Vincent v. Fuller Co., 616 A.2d 969, 974 (Pa. 1992) (holding that “persons with claims that are recognizable under the [PHRA] must avail themselves of the administrative process of the [PHRC] or be barred from the judicial remedies authorized in Section 12(c) of the Act”).

Scott argues instantly that her PHRA claim was timely filed with the PHRC. More specifically, she contends that her termination became effective on October 7, 1994 and that she filed her complaint with the EEOC on November 18, 1994. The EEOC, by letter dated November 29, 1994, acknowledged the filing of the charge and stated, “You need do nothing further at this time.” Pl.’s Answer to Def.’s Mot. to Dismiss, Ex. B. The letter stated further that:

You should be aware that the Commission will provide a copy of your charge to the below listed agency in accordance with our procedures. If your charge is processed by that agency, you may be required to swear to or affirm your signature before a notary public or an official of the agency. Agency: Pennsylvania Human Relations Comm.

Id. Then, on February 17, 1995, the EEOC wrote Scott’s attorney stating:

Your client’s above-referenced charge has been filed with both the Equal Employment Opportunity Commission (EEOC) and the Pennsylvania Human Relations Commission (PHRC). At your request, the EEOC is hereby deferring your client’s charge to the PHRC so that PHRC can investigate the charge. The contents of the EEOC file will be sent to PHRC so that PHRC will not have to request information from you or the Respondent which has already been provided to EEOC.

EEOC will place its charge in abeyance pending PHRC’s resolution of your charge. Upon completion of its proceedings, PHRC will notify EEOC of its findings so that EEOC can determine whether or not to close its file based thereon.

Id. Ex. C. Therefore, Scott argues, her claim was filed with the PHRC by February 17, 1995,

well within the 180-day deadline.

Pennsylvania courts have held that the PHRA filing requirement is satisfied if the EEOC forwards a charge to the PHRC. See Luku v. Westinghouse Elec. Corp., 419 A.2d 431, 452-53 (Pa. Super. Ct. 1980); see also Vincent, 616 A.2d at 971. According to this precedent, therefore, the Court finds that Scott's claim was timely filed with the PHRC.

This is the case notwithstanding Metropolitan's reliance on Woodson and similar cases dismissing plaintiffs' claims for filing their PHRC charges in an untimely fashion. In Woodson, the plaintiff did not mark the box on his EEOC claim to cross-file his claim with the PHRC and acknowledged in writing that he had been advised of his right to file a complaint under the PHRA and that he must do so within thirty days or waive his rights under the act. See id. In this case, to the contrary, the EEOC not only informed Scott that it had forwarded her complaint to the PHRC, but confirmed in writing that it had been filed with both the EEOC and the PHRC.

Therefore, the Court finds that Scott filed her claim within 180-days of the alleged discriminatory conduct by Metropolitan, thereby satisfying the timeliness requirement of the PHRA. Metropolitan's motion is accordingly denied.

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**ORDER**

**AND NOW**, this day of August, 2000, in consideration of the Motion in Lieu of Answer to Dismiss the Complaint (Doc. No. 4) filed by the Defendant, Metropolitan Life Insurance Company, and the response of the Plaintiff, Helen Marie Scott, thereto, it is

**ORDERED:**

- (1) The motion is **DISMISSED** as to the Plaintiff's § 1981 claim.
- (2) The motion is **DENIED** as to the Plaintiff's Title VII and Pennsylvania Human Relations Act claims.

**BY THE COURT:**

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JAMES MCGIRRKELLY, J.